

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

VS.

CIVIL ACTION NO. 2:05CV2074-KS-MTP

EAGLE QUICK STOP, INC.
D/B/A SID'S DISCOUNT FUEL, et al

ORDER

This cause is before the Court on Broadacre Travel Center's [100] Motion for Attorneys Fees, [105] Response thereto by Equal Employment Opportunity Commission and the Court after duly considering the same finds that the Motion for Costs and Attorneys Fees filed by Broadacre Travel Center should be **denied** for the following reasons.

This action is one brought by the Equal Employment Opportunity Commission ("EEOC") against Eagle Truck Stop, d/b/a Sid's Discount Fuel ("Eagle") alleging employment discrimination. Approximately one year after the filing of the complaint Eagle filed a motion to amend/correct its answer and add an additional affirmative defense, which was that the statutorily required number of employees had not been met for jurisdiction under Title VII. Following the allowance of the amendment, the EEOC subpoenaed documents and took a 30(b)(6) deposition of a representative of Broadacre Travel Center, Inc., ("Broadacre"). The allegations of the EEOC were that Broadacre was an affiliated company and that the employees of Broadacre should be included with employees of Eagle to reach the jurisdictional number. The relevancy of the request of the EEOC is obvious. *Equal Employment Opportunity Commission v. Local 580*

International Association of Bridge, Structural and Ornamental Ironworkers, 133 F. R.D. 445.

Interestingly, Broadacre did not file a motion to quash the subpoena pursuant to the F.R.C.P. 45(c). Had this been brought to the Court's attention the issue of unreasonable costs or burden could have been addressed. EEOC was entitled to obtain the records of the non-party, Broadacre Travel Center, and Broadacre was entitled to request conditions, such as expenses, but same was to be requested within fourteen (14) days. F.R.C.P. 45(c)(2)(B).

For the reasons above described, the request by Broadacre Travel Center, Inc., for costs and attorneys fees is **denied**.

SO ORDERED on this, the 2nd day of July, 2007.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE